

SPECIAL CIVIL APPLICATION NO. 13751 OF 1993.

Date of Decision: 15.2.1996

FOR APPROVAL AND SIGNATURE

THE HON'BLE MR. JUSTICE N N MATHUR

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil

Mr J V Desai and Mr K K Bhaya, Advocates for the petitioners

Mrs. K A Mehta, Advocate for the respondent

CORAM ; N N MATHUR, J.
(February 15, 1996)

ORAL JUDGMENT

Under a scheme of the Gujarat Housing Board for Middle Income Group persons. houses were to be constructed at the cost of Rs.70,000/- which was subsequently raised to Rs.81,600/- and the instalment was fixed at Rs.635/- per month instead of Rs.745/- per month. The petitioners approached the State Consumer Redressal Commission where

they succeeded. The Housing Board went in appeal to the National Redressal Commission. There the order of the State Consumer Redressal Commission was reversed. Thus, in addition to the amount of Rs.81,600/-, the petitioners have further been asked to pay a penalty of Rs.32,132/-. It is not in dispute that under the different orders passed by this Court, the petitioners No.1,2,3 and 4 have deposited Rs. 27,000/-, 7,000/-, 26,000/-, 20,200/- respectively which comes to Rs.80,200/- in total. So far as petitioner No.2 is concerned, he has deposited Rs.7000/- only. Thus, the dispute so far as petitioners No.1,3 and 4 are concerned, remains with respect to the penalty amount of Rs.32,132/- only. So far as this amount is concerned, the contention of the learned Advocate for the petitioner is that the Housing Board is not entitled to levy the said penalty as the delay was on account of pendency of the matter before the State Commission as well as the National Commission. It is further submitted that the said penalty has been imposed without affording an opportunity of hearing to them.

2. Considering the facts of the case, it is considered appropriate that the petitioners No.1, 3 and 4 are given an opportunity of hearing with respect to the imposing of penalty is concerned. So far as petitioner No.2 is concerned, since he has not deposited the amount as directed by this Court, he is not entitled to any further direction by this Court.

3. In view of the aforesaid, this Special Civil Application is partly allowed and the respondent-Gujarat Housing Board is directed to hear the petitioners on the question of imposing of penalty which comes to an amount of Rs. 32,132/- approximately. In case, appropriate representation is made by the petitioners within a period of two weeks from the date of receipt of the writ, the Housing Board will decide the representation within a period of 4 weeks thereafter. The interim relief granted by this Court shall continue till two weeks subsequent to the date of communication of the order of the Housing Board. If the petitioners have any grievance against the order of the Board, it will be open for them to approach this Court. So far as the petitioner No.2 is concerned, since he has not complied with the directions of this Court and he is a defaulter, it will be open for the Housing Board to dispossess after giving him notice of one week. In case of difficulty, it will be open for the petitioner No.2 to approach this Court. In case no representation is made within the stipulated period, the interim relief which is directed to be continued, will come to an end. Notice discharged.

